

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID S. PUENTE
and JEFFREY RULE

Appeal 2007-0035
Application 09/924,036¹
Technology Center 2600

Decided: May 11, 2007

Before JAMES D. THOMAS, KENNETH W. HAIRSTON, and
LEE E. BARRETT, *Administrative Patent Judges*.

BARRETT, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-5. We have jurisdiction pursuant to 35 U.S.C. § 6(b).

We reverse.

¹ Application for patent filed August 7, 2001, now Publication US 2003/0033606 A1.

BACKGROUND

The claims are directed to a streaming media publishing system.

Claim 1 is illustrative:

1. A streaming media publishing system comprising:
 - a source of media content comprising video, audio and textual content;
 - a content processing center coupled for receiving the media content from the source of media content, and for processing the received media content to generate a streaming media presentation comprising integrated static HTML pages and encoded video, audio and metadata;
 - a satellite for transmitting the streaming media presentation;
 - a cache server for receiving and storing the transmitted streaming media presentation;
 - one or more client personal computers coupled to the cache server that each comprise browser software for accessing the streaming media presentation stored on the cache server and displaying the streaming media presentation.

THE REFERENCES

The Examiner relies on the following prior art references:

Burns	US 5,991,306	Nov. 23, 1999
Lumley	US 6,588,013 B1	July 1, 2003 (filed Jan. 8, 1999)
Nagai	US 6,795,092 B1	Sep. 21, 2004 (filed Feb. 14, 2000)
Omoigui	US 2005/0076378 A1	Apr. 7, 2005 (filed Nov. 30, 2004)

THE REJECTIONS

Claim 1 stands rejected under 35 U.S.C § 103(a) as unpatentable over Burns and Lumley.

Claim 2 stands rejected under 35 U.S.C § 103(a) as unpatentable over Burns and Lumley, further in view of Omoigui.

Claims 3 and 4 stand rejected under 35 U.S.C § 103(a) as unpatentable over Burns and Nagai.

Claim 5 stands rejected under 35 U.S.C § 103(a) as unpatentable over Burns and Nagai, further in view of Omoigui.

DISCUSSION

Claims 1 and 2

The Examiner finds that Burns discloses the invention of claim 1, including a source of media content including video, audio, and textual content, but does not disclose a particular source for the media content (Final Rejection 9). The Examiner finds that Lumley discloses a source of media content 14 in Figure 1, including video, audio, and textual content, for distributing various promotional materials to multiple users (*id.*). The Examiner concludes that it would have been obvious to modify Burns to include a source of media content, as taught by Lumley, for the benefit of distributing various promotional materials to multiple users (*id.*).

Appellants note that the Examiner admits that Burns does not disclose "a source of media content comprising video, audio and textual content," as recited in claim 1. It is argued that Burns does not teach the remaining

limitations of a "content processing center," a "satellite," a "cache server," and "one or more client personal computers," as recited in claim 1 (Br. 7-9).

Appellants essentially argue that Burns does not teach, suggest, or imply any of the limitations of claim 1. We disagree. Burns teaches the claimed "satellite," "cache server," and "one or more client personal computers" for the reasons stated by the Examiner (Answer 10-11). Burns teaches that the network 54 is capable of supporting streaming video data (col. 6, ll. 32-33) and that the network 54 might be implemented by satellite (col. 6, ll. 22-25). Thus, Burns teaches "a satellite for transmitting the streaming media presentation." The cache server 72 and continuous media server (CMS) 74, which together may be considered a cache server, cache Internet resources that have been downloaded from the content server 52 over the network 54 (col. 6, ll. 55-65), which include the streaming video because this is the whole point of Burns. Thus, Burns teaches "a cache server for receiving and storing the transmitted streaming media presentation." The subscriber PCs coupled to the cache server 72/CMS 74 inherently must include browser software to access and display the streaming media presentation (col. 8, ll. 6-9), otherwise the streaming media stored in the cache server could not be accessed. The use of browser software to access the stored media downloaded from the Web is not disclosed in detail because it was so notoriously well known. Thus, Burns inherently teaches "one or more client personal computers coupled to the cache server that each comprise browser software for accessing the

streaming media presentation stored on the cache server and displaying the streaming media presentation."

Thus, the two limitations in question are the "source of media content" and the "content processing center." The Examiner finds that "Burns fails to specifically disclose a particular source for the media content" (Final Rejection 9) and thus does not disclose a "source of media content." The Examiner finds that the content server 52 in Burns is a "content processing center . . . for processing the received media content" because "the retrieval and transmission of content to the cache server requires the content to be processed" (Answer 9). The Examiner finds that:

column 6, lines 1-7 in Burns inherently discloses generating a streaming media presentation comprising integrated static HTML pages by disclosing that the content server multicasts HTML pages (HTML by itself is static unless otherwise stated as dynamic HTML, which is an interactive web site created by using a combination of static HTML and other key components).

(Answer 9).

Appellants argue (Br. 7-8; Br. 8-9) that content server 52, which the Examiner relies on to be the "content processing center," does not perform the claimed function "to generate a streaming media presentation comprising integrated static HTML pages and encoded video, audio and metadata." It is argued that the Examiner errs in finding that the content server 52 inherently generates HTML pages (Br. 7).

The issue is whether the Examiner is correct in interpreting "for processing the received media content to generate a streaming media

presentation comprising integrated static HTML pages and encoded video, audio and metadata" in claim 1 to read on "the retrieval and transmission of content . . . to be processed" (Answer 9) in the content server 52.

"Processing" is defined as "The performance of logical operations and calculations on data, including temporary retention of data in processor storage while the data is being operated on." *IBM Dictionary of Computing* (10th ed., McGraw-Hill, Inc. 1993). Mere storing and retrieving of data does not perform any logical operations or calculations on data and is not technically "processing." "Generate" is defined as "to bring into existence." *Webster's New Collegiate Dictionary* (G.&C. Merriam Co. 1977).

"Generate" requires more than just "select" or "retrieve." *See In re Scroggie*, 170 Fed. Appx. 132, 135 (Fed. Cir. 2006) (nonprecedential) ("The term 'generating page data' means that the page data is 'generated,' not merely 'selected.'"). Therefore, "processing the received media content to generate a streaming media presentation" requires operating on the media content to create a streaming media presentation that did not exist before, and is not met by just retrieving previously stored data.

Claim 1 recites "a source of media content comprising video, audio and textual content" and "a content processing center coupled for receiving the media content from the source of media content, and for processing the received media content to generate a streaming media presentation comprising integrated static HTML pages and encoded video, audio and metadata." That is, the content processing center *receives* video, audio, and

textual content and *processes* that media content to *generate* a streaming media presentation comprising integrated static HTML pages and encoded video, audio and metadata. The content server 52 merely retrieves data from storage and transmits that data. We find that the content server 52 does not "process" data to "generate" a streaming media presentation as those terms are conventionally defined. Burns discloses that "[t]he content server 52 serves content in the form of text[,] audio, video, graphic images, and other multimedia data" (col. 5, l. 66 to col. 6, l. 1) and may serve "hypermedia documents" (col. 6, ll. 3-4) and "streaming video data" (col. 6, ll. 32-33). Thus, content server 52 best corresponds to the claimed "source of media content comprising video, audio and textual content." Burns discloses distributing "streaming video data," but we find no teaching of "a streaming media presentation comprising integrated static HTML pages and encoded video, audio and metadata" generated by a "content processing center."

The Examiner relies on Lumley for a source of media content. Lumley relates to distributing promotional video material in a cable television environment. While it is true that claim 1 does not expressly recite a telecommunications network environment, "streaming media" is usually understood to refer to media distributed over a telecommunications network, because television and radio are inherently streaming. In any case, there appears to be no dispute that the content in the content server 52 in Burns has to come from somewhere, although it is not shown. In terms of the claim language, the content server 52 in Burns appears to correspond to

the source because it does not perform the "content processing center" function of "processing the received media to generate a streaming media presentation." Lumley does not cure the deficiency of Burns with respect to this missing function. Accordingly, the rejection does not establish a prima facie case of obviousness. The rejection of claim 1 is reversed.

Omoigui, which is applied to the rejection of claim 2, does not cure the deficiency of the rejection over Burns and Lumley. The rejection of claim 2 is reversed.

Claims 3-5

The Examiner finds that Burns discloses the invention of claim 3 except for converting the dynamic HTML pages into a static HTML page (Final Rejection 11). The Examiner finds that, in analogous art, Nagai discloses at column 6, lines 39-43, and column 7, lines 50-52, converting a dynamic HTML page into a static HTML page for the benefit of generating a static digest/summary of a multimedia from a plurality of media data (Final Rejection 11-12). The Examiner concludes that it would have been obvious to modify Burns to include converting the dynamic HTML page into a static HTML page, as taught by Nagai, for Nagai's disclosed benefit of such a conversion (Final Rejection 12).

Appellants argue (Br. 12) that column 6, lines 39-43, and column 7, lines 50-52, of Nagai, do not teach, suggest, or imply converting the dynamic HTML page into a static HTML page as required by the steps of "processing," "encoding," "converting," "integrating," and "transmitting." It

is argued that there is no motivation to combine Burns with Nagai absent the conversion of the dynamic HTML page into a static HTML page in Nagai (Br. 12). It is argued that Burns is not analogous to Nagai (Br. 12).

The Examiner responds that Nagai teaches converting dynamic contents into a static HTML page at column 7, lines 50-52 (Answer 13). The Examiner states that the motivation to combine Burns and Nagai is for the benefit of generating a static digest/summary of a multimedia from a plurality of media data as stated at column 6, lines 39-43, and column 7, lines 50-52 (Answer 14).

Although Appellants' arguments could have been more clearly stated, we understand the main argument to be that the combination of Burns and Nagai does not teach the steps of "processing," "encoding," "integrating," and "transmitting" in combination with the step of "converting the dynamic HTML page into a static HTML page." The rejection relies principally on Burns. The Examiner finds that the limitation of "selectively processing graphics and text associated with a streaming media presentation to create a dynamic hypertext markup language (HTML) page corresponding thereto" is taught at column 5, line 66 to column 6, line 7 (Answer 6). As with claim 1, we find no disclosure of the content server 52 "processing . . . to create." The server merely retrieves content from storage and transmits it. There is no mention that a "dynamic HTML" page is "created." The Examiner states that "HTML by itself is static unless otherwise stated as dynamic HTML"

(Answer 9), so one would not normally assume the HTML page is dynamic in the absence of a specific mention of "dynamic."

The Examiner finds that "processing video and audio to extract metadata associated with the presentation" corresponds to hyperlinks for hypermedia documents to video and audio. We find no disclosure or suggestion that the content server 52 or any other element performs processing to extract metadata. "Metadata" is data about data. Links are data and, in any case, the links are not "extracted" by "processing."

The Examiner finds that "encoding the video, audio and metadata in a predetermined video format" is inherently done to be suitable for transmission. While we agree that what is transmitted is inherently encoded, there is no disclosure or suggestion of encoding "metadata."

The limitations of "integrating" and "transmitting" are likewise not clearly supported by Burns. Nagai is cited for teaching converting dynamic HTML pages into static HTML pages. Assuming this is true, this does not cure the deficiencies of Burns with respect to the other limitations.

For these reasons, the rejection does not establish a prima facie case of obviousness. The rejection of claims 3 and 4 is reversed.

Omoigui, which is applied to the rejection of claim 5, does not cure the deficiency of the rejection over Burns and Nagai. The rejection of claim 5 is reversed.

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CONCLUSION

The rejections of claims 1-5 are reversed.

REVERSED

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